

1
2
3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 PAUL CARNEY,

7 Plaintiff,

8 v.

9 C. WARNER, et al.,

10 Defendants.

No. C08-5653BHS/KLS

ORDER DENYING MOTION FOR THE
APPOINTMENT OF COUNSEL

11
12 This civil rights action has been referred to United States Magistrate Judge Karen L.
13 Strombom pursuant to Title 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Before the Court is
14 Plaintiff's motion for appointment of counsel. Dkt. 25. Having carefully reviewed Plaintiff's
15 motion, Defendants' response (Dkt. 28), and balance of the record, the Court finds, for the
16 reasons stated below, that Plaintiff's motion should be denied.

17
18 **I. DISCUSSION**

19 There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983.
20 Although the court, under 28 U.S.C. § 1915(d), can request counsel to represent a party
21 proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. *Wilborn*
22 *v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236
23 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional
24 circumstances requires an evaluation of both the likelihood of success on the merits and the
25 ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues
26

ORDER DENYING MOTION FOR COUNSEL - 1

1 involved. *Wilborn*, 789 F.2d at 1331. Neither of these factors is dispositive and both must be
2 viewed together before reaching a decision on request of counsel under Section 1915(d). *Id.*

3 Plaintiff requests appointment of counsel because all the defendants are represented by
4 counsel and because a jury trial has been requested. Dkt. 25. He also states that he has recently
5 been released from prison and that Social Security is his only source of income. *Id.*

6 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se* and has not
7 demonstrated that the issues involved in this case are complex. Plaintiff's lack of legal training
8 and resources are not exceptional circumstances that warrant the appointment of counsel.

9 Rather, they are the type of difficulties encountered by many pro se litigants. Plaintiff has also
10 not shown a likelihood of success on the merits. *See, e.g., Wilborn*, 789 F.2d at 1331.

11 Accordingly, Plaintiff's motion to appoint counsel (Dkt. 25) is **DENIED**. The Clerk is directed
12 to send copies of this Order to Plaintiff.
13

14 DATED at Tacoma, Washington this 28th day of July, 2009.
15

16
17
18 
19 Karen L. Strombom
20 United States Magistrate Judge
21
22
23
24
25
26